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VIA ELECTRONIC FILING (ECFS)

May 16, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers (WT Docket No. 05-265); *EX PARTE*

Dear Ms. Dortch:

Leap Wireless International, Inc. ("Leap") submits this letter in reply to Sprint Nextel Corporation's ("Sprint's") *ex parte* letter filed on March 16, 2007 in the above-captioned docket. Sprint has lost sight of first principles.

As Leap and others have amply demonstrated in their submissions in this proceeding, nationwide carriers such as Sprint are price-gouging and blatantly discriminating against the subscribers of small, rural and regional carriers, many of whom are economically disadvantaged and underserved. The specific rules that Leap and others seek in connection with automatic roaming are necessary to protect consumers and to promote the Commission's stated goal of "develop[ing] … a seamless, nationwide 'network of networks.'"[1]

Contrary to Sprint's suggestion, Leap is not asking the Commission to make a "radical departure from previous Commission policy" or "to abandon" the "pro-competitive model and return to the days of single provider rate regulation and regulatory arbitrage."[2] Leap simply asks the Commission (1) to affirm the "bedrock consumer protection obligations of a common carrier" that "have represented the core concepts of federal common carrier regulation dating back over a hundred years,"[3] and (2) to "prescribe such rules and regulations as may be

[1] Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, 15 FCC Rcd 21628, 21630 ¶ 15 (2000).
[2] Sprint, *Letter to Marlene H. Dortch*, WT Docket No. 05-265 (filed Mar. 16, 2007) ("*Sprint Ex Parte Letter*"), at 2. Unless otherwise noted, the documents cited in this letter are in this docket.
[3] Personal Communication Industry Association's & Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Communications Services, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 13 FCC Rcd 16857, 16865 ¶ 15 (1998).

necessary in the public interest"[4] in order to ensure that CMRS carriers such as Sprint comply with their statutory obligations.

I. SPRINT IGNORES SETTLED AGENCY INTERPRETATIONS AND CASE LAW AND GROSSLY MISCHARACTERIZES THE RELIEF SOUGHT IN THIS PROCEEDING

According to Sprint, CMRS carriers have no obligation to provide automatic roaming to another carrier's subscribers because "'the first clause of § 201(a) concerns a carrier's obligations to its *own customers'* reasonable requests,' and *not* to requests by other carriers."[5] To support this proposition, Sprint grossly contorts the D.C. Circuit's holding in *FCC v. AT&T*, which had nothing whatsoever to do with a common carrier's obligation to furnish telecommunications services to subscribers of another carrier. Instead, the question presented in that case was whether AT&T must establish a through-route with another carrier.[6] Sprint acknowledges that automatic roaming arrangements do not involve through-routes,[7] yet somehow it believes that *FCC v. AT&T* is "governing precedent." Sprint is wrong.

Section 201(a) requires common carriers to furnish telecommunications services upon reasonable request.[8] The Commission has consistently treated roaming as a common carrier telecommunications service, because "it is (1) an interconnected mobile service (2) offered for profit (3) in such a manner as to be available to a substantial portion of the public."[9] The Commission reaffirmed that understanding in its *Notice of Proposed Rulemaking* in this proceeding, and it also recognized that "CMRS providers are subject to the common carrier provisions of Title II of the Act.[10]

It necessarily follows that CMRS carriers must furnish roaming upon reasonable request. Sprint tries to escape this logical syllogism by distinguishing requests that come directly from consumers (which Sprint acknowledges are covered under § 201(a))[11] from requests made by another carrier on behalf of its subscribers. The Commission has expressly and repeatedly

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[4] 47 U.S.C. § 201(b).
[5] *Sprint Ex Parte Letter* at 4 (quoting *AT&T v. FCC*, 292 F.3d 808, 812 (D.C. Cir. 2002)).
[6] *AT&T v. FCC*, 292 F.3d at 812 ("[I]f the FCC wants to compel AT&T to establish a through route with another carrier, then the FCC must follow the procedures specified in the second clause of § 201(a).").
[7] *Sprint Ex Parte Letter* at 4 n.19.
[8] 47 U.S.C. § 201(a).
[9] Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, *Second Report and Order and Third Notice of Proposed Rulemaking*, 11 FCC Rcd 9462, 9469 ¶ 10 & n.30 (1996) ("*Interconnection and Resale Obligations Second R&O*"). *See also* Automatic Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, *Notice of Proposed Rulemaking*, 15 FCC Rcd 21628, ¶ 15 (2000) ("roaming is a common carrier service because [it] gives end users access to a foreign network in order to communicate messages of their own choosing," and therefore "the provision of roaming is subject to the requirements of [47 U.S.C. §§] 201(b), 202(a), and 332(c)(1)(B)").
[10] Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, FCC 05-160, *Notice of Proposed Rulemaking*, WT Docket No. 05-265, at 2 ¶ 2 (Aug. 31, 2005) ("*CMRS Roaming Obligations NPRM*").
[11] *Sprint Ex Parte Letter* at 4.

rejected the argument that a common carrier service ceases to be one when another carrier, as opposed to a consumer, reasonably requests the service. As the Commission has interpreted the Act, "[c]ommon carrier services include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers."[12] The Commission just recently confirmed (in a proceeding in which Sprint actively participated) that "[i]t is clear under the Commission's precedent that the definition of 'telecommunications services' is not limited to retail services, but also includes wholesale services when offered on a common carrier basis."[13] And the D.C. Circuit has endorsed that interpretation, explaining that "the key determinant" for common carrier status is status "is 'the characteristic of holding oneself out to serve indiscriminately,'" not whether the carrier offers its services "'directly to the public.'"[14] As established above, the Act as interpreted by the Commission mandates that roaming is a common carrier service—that Sprint must hold itself out to provide this service on a nondiscriminatory basis. Common carrier obligations extend to other carriers, and Sprint cannot avoid that obligation by attempting to discriminate against other carriers. Thus, Sprint's contention that Section 201(a) "has no relevance" to this proceeding because automatic roaming does not involve a request directly from the public is spurious.

Sprint also claims that Leap and other small, regional, and rural carriers seek the imposition of sweeping regulation that would require the Commission to abandon reliance on competitive forces and "return to the days of single provider rate regulation and regulatory arbitrage."[15] Sprint wildly overstates the requested relief.

The Commission, recognizing that roaming is an important feature for wireless users, has imposed a manual roaming rule for more than 25 years[16] and requires that roaming be provided on a just, reasonable, and nondiscriminatory basis.[17] As Leap explained in its opening comments, however, manual roaming has never been widely used and many of Leap's customers lack the ability to roam manually because they have no credit card.[18]

Leap and other small, regional, and rural carriers seek an extension of the Commission's existing rule to mandate automatic roaming agreements on a just, reasonable, and nondiscriminatory basis, as detailed at the end of this letter. The requested relief would not

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[12] Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, 9178 ¶ 785 (1997).
[13] Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers, DA 07-709, *Memorandum Opinion and Order*, WC Docket No. 06-55, at 5 ¶ 11 (rel. Mar. 1, 2007).
[14] *See Virgin Islands Tel. Corp. v. FCC*, 198 F.3d 921, 927 (D.C. Cir. 1999) (quoting *Nat'l Ass'n of Regulatory Utility Commissioners v. FCC*, 525 F.2d 630, 642 (1976)).
[15] *Sprint Ex Parte Letter* at 2.
[16] Until 1996, the Commission required only cellular carriers to offer manual roaming. *See CMRS Roaming Obligations NRPM*, at 3 ¶ 4. In 1996, the Commission extended the rule to include other CMRS providers. *See id.*
[17] *See* Automatic Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, *Notice of Proposed Rulemaking*, 15 FCC Rcd 21628, ¶ 15 (2000)
[18] *Comments of Leap* at 5 n.9 (filed Nov. 28, 2005).

require the Commission to abandon its current pro-competitive scheme, but would in fact foster competition and promote consumer welfare. And merely because the Commission now plays less of a role in supervising common carriers in general and wireless providers in particular does not mean that Congress has entirely deregulated the telecommunications industry. As the Supreme Court recently explained in *Global Crossing Telecommunications, Inc. v. Metrophones Telecommunications, Inc.*, the fact that Congress has "reduced the role that tariffs play in regulatory supervision" and moved to a "system that relies in part upon competition and in part upon more traditional regulation" does not diminish the Commission's enforcement obligations under § 201.[19] In short, Leap and other carriers ask only that the Commission fulfill its regulatory responsibility to protect consumers.

II. THE RECORD IN THIS PROCEEDING DEMONSTRATES THAT SPRINT IS PRICE GOUGING AND BLATANTLY DISCRIMINATING AGAINST LEAP'S CUSTOMERS WITH NO PROCOMPETITIVE JUSTIFICATION

Sprint openly and proudly states that average *retail* roaming rates "have decreased by a factor of ten" over the last decade.[20] Yet Sprint does not deny that wholesale roaming rates that nationwide carriers charge have remained staggeringly high during that same period—in some cases, as the record reflects, wholesale roaming rates are many times higher than average retail rates, and significantly higher than rates charged to affiliates and MVNOs for functionally equivalent service.[21] Thus, while it may be true that average retail roaming rates are as low as 10 cents/minute,[22] the fact remains that Sprint demands that Leap pay multiples of that price for wholesale service that is functionally identical and cheaper for it to provide.

The only response that Sprint offers to this fact is that "[t]hese prices cannot be 'above market,' much less 'grossly above market,' when Leap *agreed voluntarily* to the rates in a market where Leap enjoyed multiple potential roaming partners."[23] Sprint's suggestion that the wholesale roaming rates it charges Leap *must be* reasonable merely because Leap agreed to them has no basis in common sense or economic theory. As the *ERS Economic Analysis of Roaming* shows, "wholesale rates that exceed retail rates can only be a product of misused market power."[24] In many cases, Leap has no other option but to accede to Sprint's exorbitant demands. Leap cannot be faulted for striving to do business *despite* the flawed market for wholesale

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[19] *Global Crossing Telecommunications, Inc. v. Metrophones Telecommunications, Inc.*, __ U.S. __, Case No. 05-705, 2007 WL 1119293, *8 (decided Apr. 17, 2007) (citing Policy and Rules Concerning the Interstate, Interexchange Marketplace, 12 FCC Rcd 15014, 15057 ¶ 77 (1997); *Boomer v. AT&T Corp.*, 309 F.3d 404, 422 (7th Cir. 2002)).
[20] *Sprint Ex Parte Letter* at 8.
[21] *See Comments of Leap*, Attachment A, ERS Group, *Wholesale Pricing Methods of Nationwide Carriers Providing Commercial Mobile Radio Service: An Economic Analysis*, at 10–11 ("*ERS Economic Analysis of Roaming*").
[22] *Sprint Ex Parte Letter* at 8.
[23] *Sprint Ex Parte Letter* at 7 (citing Leap, *Letter to Marlene H. Dortch*, at 2 (filed Sept. 25, 2006)).
[24] *ERS Economic Analysis of Roaming* at 23.

roaming services, and Sprint's sheer ability to exact such rates plainly cannot justify such anticompetitive conduct.

On this score, Sprint sang a different tune back in 2001, when Sprint itself "experienced roaming prices that vary from 200% to 500% in the same market," and described "instances where large urban carriers charge significantly higher roaming prices than smaller rural carriers."[25] It acknowledged that, where a roaming market is limited to two potential negotiating partners, the carriers offering roaming "have both the incentive and the ability to misuse their market power,"[26] and it vigorously opposed exempting in-market roaming from any obligations under the Act.[27] As reflected in the *ERS Economic Analysis of Roaming*, there are roaming duopolies in 49 of the 50 largest Basic Trading Areas, covering over 60 percent of the population, in either the CDMA or the GSM format.[28] Of course, now that Sprint is one of those duopolists, it points to the "intense competition" in the retail marketplace while ignoring the serious deficiencies in the wholesale markets,[29] and it brazenly asserts that "refusing to deal with a wireless facilities-based competitor … actually promotes the public interest."[30]

Contrary to Sprint's assertion, the Commission did not hold in 1992 that *refusals to deal* promote competition and benefit the public interest.[31] In the *Report and Order* that Sprint cites, the Commission merely recognized that because its "rules for the cellular service provided facilities-based carriers both with comparable radio spectrum and service area," resale restrictions "as applied to a fully operational facilities-based carrier" do not necessarily constitute unjust and unreasonable discrimination under § 202 of the Act.[32] That determination has no bearing on the issues before the Commission in this proceeding. Central to the *Report and Order*'s conclusion was encouraging competition between fully operational, facilities-based competitors. Sprint does not claim that, in the areas in which Leap seeks to roam, Leap is a facilities-based competitor to Sprint. Thus, Sprint's unsupported contention that automatic roaming "[a]s a practical matter" is "a form of resale"[33] is beside the point. Even if automatic roaming were viewed as a resale service, Sprint would still be prohibited from unjustly discriminating in the provision of that service. As one court observed, § 332(c) "obligates common carriers … to provide service to all customers—*including resellers*—on reasonable, non-discriminatory terms."[34] Further, that characterization would provide no justification for charging other carriers more for wholesale roaming services than the nationwide carriers charge

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[25] *Comments of Sprint PCS*, WT Docket No. 00-193, at ii (filed Jan. 5, 2001).
[26] *Id.* at 6
[27] *Ex Parte Presentation of Sprint PCS*, WT Docket No. 00-193, at 6 (filed Mar. 8, 2002).
[28] *ERS Economic Analysis of Roaming* at 9 & Table 4.
[29] *Sprint Ex Parte Letter* at 8.
[30] *Id.* at 6.
[31] *Id*. at 5 (citing Petitions for Rulemaking Concerning Proposed Changes to the Commission's Cellular Resale Policies, *Report and Order*, 7 FCC Rcd 4006 (1992) ("*Resale Policies R&O*").
[32] *Resale Policies R&O*, 7 FCC Rcd at 4009 ¶ 16.
[33] *Sprint Ex Parte Letter* at 4 n.19.
[34] *Connecticut Mobilecom, Inc. v. Cellco P'ship* (*In re Connecticut Mobilecom, Inc.*), Nos. 02-12725, 02-02519, 2003 WL 23021959, *1 (S.D.N.Y. Dec. 23, 2003) (emphasis added).

their own retail customers.[35] And, in any event, the Commission has consistently recognized the importance of roaming "to the development of a seamless, nationwide 'network of networks,'"[36] and has ruled that roaming is a telecommunications common carrier service subject to the requirements of §§ 201 and 202 of the Act. Sprint simply ignores that it is impracticable for individual subscribers to seek roaming directly from nationwide carriers, which is why it is essential for Leap to seek automatic roaming arrangements on behalf of its customers.

Sprint thoroughly confuses Leap's position, and the law, by suggesting that Leap has failed to allege or prove that it is similarly situated to Sprint's affiliates in order to demonstrate unreasonable discrimination under § 202 of the Act.[37] As Leap explained in detail in its Letter responding to similar misguided arguments by Verizon and Cingular, the well-established analysis requires the *discriminating carrier* to justify disparate pricing between functionally equivalent services.[38]

Sprint argues that because it has identified some distinctions between affiliates and other carriers with whom Sprint offers far lower roaming rates, there can be "no unreasonable discrimination as a matter of law."[39] But as the D.C. Circuit has made clear, a common carrier may not escape liability under § 202 merely by pointing to *some* plausible distinction—the Commission "must compare 'the charges actually assessed under the two pricing schemes' and the 'terms' of each arrangement" in order to determine whether the disparity is actually supported by legitimate, procompetitive concerns.[40]

Leap has disputed Sprint's attempts to justify its enormous rate disparity between functionally equivalent services, and the record to date is more than adequate to justify Commission action to remedy this blatant violation of the Act.[41] Even if, as Sprint says, it derives some plausible benefit from affiliate relationships, *see Sprint Ex Parte Letter* at 6–7, this vague and unverified assertion comes nowhere close to explaining why it demands that Leap pay rates that are many times higher than the rates it charges its affiliates and it own customers for

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[35] *See Interconnection and Resale Obligations Pertaining to Wireless Telecommunications Carriers*, 14 FCC Rcd 16430, 16368, ¶ 63 (1999) ("[A] carrier is required only to allow a reseller to purchase, at nondiscriminatory prices, those services that the carrier is offering to its own retail customers.")

[36] Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, *Notice of Proposed Rulemaking*, 15 FCC Rcd 21,628, ¶ 15 (Nov. 21, 2000).

[37] *Sprint Ex Parte Letter* at 6.

[38] *See* Leap, *Letter to Marlene H. Dortch*, at 5–8 (filed Sept. 25, 2006) (citing, *inter alia*, *Ad Hoc Telecommunications Users Comm. v. FCC*, 680 F.2d 790, 795–97 (D.C. Cir. 1982); *Cellexis Int'l, Inc. v. Bell Atlantic Nynex Mobile Sys., Inc.*, 16 FCC Rcd 22887, 22892 ¶ 11 (2001) ("*Dortch Letter*")).

[39] *Sprint Ex Parte Letter* at 7.

[40] *MCI Telecommunications Corp. v. FCC*, 917 F.2d 30, 41 (D.C. Cir. 1990) (citation omitted).

[41] *See, e.g.*, *Dortch Letter*, at 6–8. In a similar vein, Leap has also joined other carriers in inviting the Commission to conduct a further investigation if necessary pursuant to its authority under § 403 of the Act. *See* AIRPEAK Communications, LLC, Airtel Wireless LLC, Cleveland Unlimited, Inc., Leap, MetroPCS Communications, Inc., Punxsutawney Communications, Rural Telecommunications Group, Inc., and SouthernLINC Wireless, *Joint Petition for Commission Inquiry Pursuant to Section 403 of the Communications Act* (filed Apr. 25, 2006).

functionally equivalent service.[42] The law is clear that Sprint must do more than to identify some plausible distinction between recipients of its services—it must demonstrate that the difference in rates is economically justified. Sprint fails to meet that burden.

Sprint further tries to justify these disparate rates on the ground that "[t]he rates Leap … charge[s] [its] customers to roam off-net are comparable to, or less than, what [Sprint] assesses on its own occasional roaming customers."[43] Of course, the rates Sprint charges its own customers are not "roaming" rates under the Commission's definition, which provides that "'roaming' occurs when the subscriber of one CMRS provider utilizes *the facilities of another CMRS provider*…."[44] In any event, publicly available data shows that Sprint actually charges approximately $0.04 per minute for anytime, anywhere minutes. *See ERS Economic Analysis of Roaming* at Table 5. Economic rationality confounds Sprint's attempts to legitimize wholesale rates that exceed retail rates for functionally equivalent service.[45]

III. LEAP REMAINS COMMITTED TO SECURING REASONABLY PRICED ROAMING SERVICES FOR THE UNDERSERVED CUSTOMERS THAT SPRINT HAS "LEFT BEHIND"

Contrary to Sprint's hyperbole, Leap is not asking the Commission "to enable individual business plans or favor specific market participants."[46] Indeed, Leap joins with Sprint in encouraging the Commission to evaluate the state of the marketplace for wholesale roaming and its "effect on 'consumers of mobile telephony services, not on particular mobile telephony carriers *per se.*'"[47] And Leap agrees with what Sprint stated only a few years back -- that *"cellular carriers operating in a duopoly market have both the incentive and the ability to misuse their market power*,"[48] to the obvious and inevitable detriment of consumers. Sprint's letter does not do justice to real competitive concerns that face the wireless industry as a result of concentration, which has led to duopoly markets in nearly all of the largest Basic Trading Areas in the United States.

Sprint intimates that Leap has inadequately built out its network in the areas in which it has obtained licenses, and that Leap is asking the Commission to subsidize the business decisions Leap has made.[49] In fact, Leap has one of the best track records in the wireless industry in building out markets quickly, even in smaller markets in which it has obtained

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[42] Sprint's characterization of its automatic roaming agreement with Leap as a "one-way arrangement" is severely misleading. Leap has offered Sprint reciprocal roaming, but Sprint has not taken Leap up on the offer.
[43] *Sprint Ex Parte Letter* at 3.
[44] *CMRS Roaming Obligations NPRM* at 2 ¶ 2
[45] *See ERS Economic Analysis of Roaming* at 23. Indeed, under the "comparative billing test" often applied in traditional antitrust analysis, "[i]f the wholesale price is greater than the retail price, an illegal price squeeze is presumed." *See* ABA Section of Antitrust Law, ANTITRUST LAW DEVELOPMENTS at 271 (5th ed. 2002).
[46] *Sprint Ex Parte Letter* at 13.
[47] *Id.* at 11 (quoting *Cingular/AT&T Wireless Merger Order*, 19 FCC Rcd 21522, 21591 ¶ 180 (2004)).
[48] *Comments of Sprint PCS*, WT Docket No. 00-193, at 6 (filed Jan. 5, 2001) (emphasis supplied).
[49] *Sprint Ex Parte Letter* at 4, 9–11.

licenses. It is not even clear how Sprint could believe its own argument in this respect: its own *ex parte* letter acknowledges that in 2006 Leap tripled its capital investment and expanded its coverage from 25 million potential subscribers to 48 million.[50] In addition, Leap recently acquired (directly and as part of a joint venture) additional spectrum licenses that would allow it to expand its footprint to 100 million or more potential subscribers.[51]

Roaming has become, and will likely remain, a critical feature of wireless service for most subscribers. A decade ago, it may have been sufficient for the Commission to mandate manual roaming only, but the experiences of small, regional, and rural carriers confirm that it is no longer enough to carry out the Commission's stated goal of developing a "nationwide, ubiquitous, and competitive wireless voice telecommunications."[52] Many of Leap's customers have no need or desire for constant nationwide coverage, or they simply cannot afford (or would not qualify for) services from nationwide carriers such as Sprint. As Leap explained in its initial comments, 69 percent of its subscribers have household incomes of less than $35,000.[53] These customers are forced to pay too much for the periodic out-of-area coverage they seek—not because of the laws of supply and demand, but because the nationwide carriers are abusing power to extract additional profits out of the pockets of consumers who can least afford it.

The Commission should (1) affirm that §§ 201 and 202 of the Act mandate that CMRS carriers must provide automatic roaming on a just, reasonable, and nondiscriminatory basis, and (2) prescribe the rules that Leap and others have proposed:

- CMRS providers must negotiate in good faith in response to another carrier's request for automatic roaming.

- Absent a demonstration of technological incompatibility or network incapacity, facilities-based must furnish automatic roaming service upon request of another carrier.

- Facilities-based carriers are prohibited from discriminating against similarly situated carriers in the rates charged for, or terms and conditions of, roaming service.

- In areas where there are three or fewer facilities based carriers, facilities-based carriers are prohibited from demanding rates for automatic roaming that exceed the providing carrier's average retail revenue per minute for that area.

- Complaints alleging unjust, unreasonable, or discriminatory treatment are

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[50] *Id.* at 13.
[51] *See* Reinhardt Krause, *A Bounce in Leap's Step As Sales Rose 24% in '06*, Investors Business Daily, April 4, 2007, available at http://www.investors.com/Tech/TechExecQA.asp?artid=260567165232413.
[52] *Interconnection and Resale Obligations Second R&O*, 11 FCC Rcd at 9464 ¶ 2.
[53] *Comments of Leap* at 4.

addressed promptly and expeditiously through the Enforcement Bureau's Accelerated Docket under Section 1.730 of the Commission's Rules.

- To ensure necessary information is available to assess whether certain carriers are violating their common carrier obligations, the Commission adopts automatic discovery procedures in the complaint process and monitors conditions in the wholesale market.[54]

If Sprint can explain its blatantly discriminatory roaming practices by demonstrating that there is a legitimate procompetitive explanation, then it has no reason to oppose Leap's requested relief. But if, as economics suggests and the record demonstrates, the nationwide carriers are charging supra-competitive rates, then the Commission's refusal to adopt these simple, straightforward measures would not only be arbitrary and capricious, but would amount to a derogation of its responsibility to protect consumers and promote the public interest.

Very truly yours,

/s/

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[54] *See Comments of Leap* at 16–21; *Reply Comments of Leap* at 6–8, 12–14.

cc: Robert Irving, Esq., Leap
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